



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION
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IN REPLY REFER TO:

DEP-A 22.0063

August 17, 2022

VIA EMAIL: criemer@jackhartherheli.com

Mr. Casey Riemer
Special Projects Manager
Jack Harter Helicopters
P. O. Box 306
Lihue, Hawaii 96766

Dear Mr. Riemer:

Thank you for your letter dated July 18, 2022. Act 311 (which enacted SB 3272) amended Hawaii Revised Statutes (HRS) § 261-12(b) pertaining to tour aircraft operations. To implement the amendment, the State of Hawaii, Department of Transportation, Airports Division (DOTA) must adopt rules under the Hawaii Administrative Procedures Act. During that process, the public will have an opportunity to comment on any proposed rules. Until the DOTA adopts new rules, it will operate under the existing law and procedures.

Under the existing law, the DOTA requires a permit for all tour aircraft operation, not just operators with a Title 14 of the Code of Federal Regulations parts 121 and 135 Air Carrier or Operating Certificate. HRS § 261-12(b) and Hawaii Administrative Rules (HAR) § 19-34-2. The language is clear that “no tour aircraft operation shall be permitted in any airport under the State’s control without having a permit.” HRS § 261-21(b). This is not limited to verification that the operator has a certificate 121 or 135. HRS §261-12(b)(4). Likewise, “[i]t shall be unlawful for any person to conduct tour aircraft operations on any state airport without first having obtained a Tour Aircraft Operators Permit from the department.” (HAR) § 19-34-2. Therefore, all persons conducting tour aircraft operations must have a permit.

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Finally, since the DOTA is unable to implement the requirements under the amendment until new rules are adopted, there is no basis for a penalty for non-compliance with the statutory amendments. However, HRS § 261-21 provides the penalties for violations of the existing statute or rules. Please let me know should you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ross M. Higashi'.

ROSS M. HIGASHI
Deputy Director – Airports

c: Governor David Ige (via Randall Machado)
Jade T. Butay, Director of Transportation
Davis K. Yogi, Airports Administrator
Craig Davis, Kauai District Manager (AIR-K)
Gordon Wong, Federal Aviation Administration
Marjorie A. Lau, Acting Supervising Deputy Attorney General
Duane Kokesch, Deputy Attorney General
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